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AT SEATTLE
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WESTERN DISTRICT OF WASHINGTON
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04-CV-01779-CMP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

BERNARD CAIN and MARY CAIN, his
wife,

Plaintiffs,

vs.

TRANS UNION LLC, and CREDIT
PROTECTION ASSOCIATION, L.P.,

Defendants.

NO. CV4 1779L

COMPLAINT FOR DAMAGES FOR
VIOLATION OF THE FAIR CREDIT
REPORTING ACT (15 U.S.C. §§ 1681 et
seq.); THE WASHINGTON STATE FAIR
CREDIT REPORTING ACT (RCW
19.181.05 et seq.); THE WASHINGTON
STATE CONSUMER PROTECTION
ACT (RCW 19.86.010 et seq.)

JURY TRIAL DEMANDED

I. PARTIES, JURISDICTION AND VENUE

1.1 Bernard Cain and Mary Cain are husband and wife. They live within the Western District of Washington. Plaintiffs are "consumers" within the meaning of 15 U.S.C. §1681a(3).

1.2 Trans Union LLC is a consumer reporting agency, as defined by the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. 1681 et. seq., and the Washington State Fair Reporting Act, RCW 19.181.05 et seq., doing business in the Western District of Washington.

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1 1.3 Credit Protection Association, L.P. is a consumer reporting agency as
2 defined by the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. 1681 et. seq., and
3 the Washington State Fair Reporting Act, RCW 19.181.05 et seq., doing business in
4 the Western District of Washington.

5 1.4 This court has jurisdiction pursuant to 15 U.S.C. §1681, 28 U.S.C.
6 §1331 and 28 U.S.C. §1367.

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8 II. FIRST CLAIM FOR RELIEF

9 FEDERAL FAIR CREDIT REPORTING ACT, 15 U.S.C. §1681 et seq.

10 2.1 On or about May 28, 2004 defendants furnished an investigative
11 consumer report to Washington Mortgage Group, Inc., for purposes of plaintiffs'
12 refinancing loans on their residence and another residence owned by them. This
13 report contained information that defendant Bernard Cain, wrongfully identified as
14 Bernard Kain, owed a balance to Comcast. Plaintiff Bernard Cain is no relation to
15 and never before heard of Bernard Kain.

16 2.2 Plaintiff Bernard Cain called defendants to inform them of the error
17 and requested them to inform Washington Mortgage Group, Inc. of the mistake.
18 Ultimately, plaintiffs were informed that Equifax, another consumer reporting
19 agency, had informed Washington Mortgage Group, Inc. of the error so that
20 plaintiffs' credit reputation might be restored. Nevertheless, defendants have,
21 despite numerous frustrating calls by plaintiffs and their counsel, refused to clear
22 the mistake.
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1 2.3 Thus defendants have willfully failed to comply with the
2 requirements imposed under FCRA, including, but not limited to, failing to follow
3 reasonable procedures to assure maximum possible accuracy of the information in
4 investigative consumer reports as required by 15 U.S.C. §1681(b).

5 2.4 As a result of defendants' violation of the FCRA, plaintiffs have been
6 unable to refinance their residence and other property owned by them and have
7 sustained economic damage in the form of inability to refinance, higher interest
8 rates, damage to their reputation, worry, fear, distress, frustration, embarrassment,
9 and humiliation, all in an amount to be determined by the jury.

10 2.5 Plaintiffs are entitled to punitive damages in an amount as the court
11 may allow.

12 2.6 Plaintiffs are entitled to their attorney fees, pursuant to 15 U.S.C.
13 §1681n(c) and 1681o.

14 III. SECOND CLAIM FOR RELIEF

15 FEDERAL FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681 et seq.

16 3.1 Plaintiffs reallege paragraphs 1.1 through 2.6 as if fully set forth here.

17 3.2 Defendants negligently failed to comply with the requirements
18 imposed under FCRA, including, but not limited to, failing to follow reasonable
19 procedures to assure maximum possible accuracy of the information in
20 investigative consumer reports as required by 15 U.S.C. § 1681(b).

21 3.3 As a result of defendants' violation of the FCRA, plaintiffs were
22 caused to suffer economic damages in the form of inability to refinance, higher
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1 interest rates, damage to their reputation, worry, fear, distress, frustration,
2 embarrassment, and humiliation, all in an amount to be determined by the jury.

3 3.4 Plaintiffs are entitled to their attorney fees, pursuant to 15 U.S.C. §
4 1681n(c) and 1681o.

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6 IV. THIRD CLAIM FOR RELIEF

7 WASHINGTON STATE FAIR CREDIT REPORTING ACT, RCW 19.182.005 et. seq.

8 4.1 Plaintiffs reallege paragraphs 1.1 through 3.4 as if fully set forth here.

9 4.2 Defendants willfully failed to comply with the requirements imposed
10 under Washington State Fair Credit Reporting Act, RCW 19.182.005 et seq.,
11 including, but not limited to, failing to following reasonable procedures to assure
12 maximum possible accuracy of the information to investigative consumer reports,
13 as required by RCW 19.182.060(2).

14 4.3 As a result of defendants' violation of the Washington State FCRA,
15 plaintiffs were caused to suffer economic damages in the form of inability to
16 refinance, higher interest rates, damages to their reputation, worry, fear, distress,
17 frustration, embarrassment, and humiliation, all in an amount to be determined by
18 the jury.

19 4.4 Plaintiffs are entitled in addition to actual damages, to a \$1,000
20 penalty in accordance with RCW 19.182.150.

21 4.5 Plaintiffs are entitled to costs of this suit, including attorney fees,
22 pursuant to RCW 19.182.150.

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V. FOURTH CLAIM FOR RELIEF

WASHINGTON STATE FAIR CREDIT REPORTING ACT, RCW 19.182.005 et seq.

5.1 Plaintiffs reallege paragraphs 1.1 through 4.5 as if fully set forth here.

5.2 Defendants negligently failed to comply with the requirements imposed under Washington State Fair Credit Reporting Act, RCW 19.182.005, et seq., including, but not limited to, failing to follow reasonable procedures to assure maximum possible accuracy of the information in investigative consumer reports, as required by RCW 19.182.060(2).

5.3 As a result of defendants' violation of the Washington State Fair Credit Reporting Act, plaintiffs were caused to suffer economic damages in the form of inability to refinance, higher interest rates, damage to their reputation, worry, fear, distress, frustration, embarrassment, and humiliation, all in an amount to be determined by the jury.

5.4 Plaintiffs are entitled to costs of this suit, including their attorney fees, pursuant to RCW 19.182.150.

VI. FIFTH CLAIM FOR RELIEF

WASHINGTON STATE CONSUMER PROTECTION ACT, RCW 19.86.010 et seq.

6.1 Plaintiffs reallege paragraphs 1.1 through 5.4 as if fully set forth here.

6.2 Defendants, in violating the Washington State Fair Credit Reporting Act, committed "an unfair or deceptive act in trade or commerce . . . for purposes of applying the consumer protection act" in violation of the Washington State Consumer Protection Act, RCW 19.86.010 et seq.



1 6.3 Defendants engaged in an unfair or deceptive act or practice because
2 in failing to adopt and execute "reasonable procedures to assure maximum possible
3 accuracy of the information concerning the individual about whom the report
4 relates" under RCW 19.182.060(2), and such a failure is deemed an unfair or
5 deceptive practice pursuant to RCW 19.182.150, and is thus a violation of the
6 Washington State Consumer Protection Act, RCW 19.86.010 et seq., specifically
7 RCW 19.86.020.
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9 6.4 This act or practice by the defendants occurred in the conduct of its
10 business.
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12 6.5 This act or practice affected the public interest.

13 6.6 By losing refinancing opportunities and paying higher interest,
14 plaintiffs were injured in their business or property.

15 6.7 Defendants' act caused plaintiffs' injury.

16 6.8 Plaintiffs are entitled under RCW 19.86.090 to actual damages.

17 6.9 Plaintiffs are entitled to costs of this suit, including a reasonable
18 attorney fee.
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20 6.10 The award of damages should be increased to an amount three times
21 the actual damages sustained.

22 **VII. PRAYER FOR RELIEF**

23 WHEREFORE, plaintiffs Bernard Cain and Mary Cain pray for judgment
24 against defendants as follows:
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1. FIRST CLAIM FOR RELIEF

Federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

a. As a result of defendants' violation of the FCRA, plaintiffs were caused to suffer economic damages in the form of inability to refinance, higher interest rates, damage to their reputation, worry, fear, distress, frustration, embarrassment, and humiliation, all in an amount to be determined by the jury.

b. Plaintiffs are entitled to punitive damages in an amount to be determined by the jury.

c. Plaintiffs are entitled to their attorney fees, pursuant to 15 U.S.C. § 1681n(c) and 1681o.

2. SECOND CLAIM FOR RELIEF

Federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

a. As a result of defendants' violation of the FCRA, plaintiffs were caused to suffer economic damages in the form of inability to refinance, higher interest rates, damage to their reputation, worry, fear, distress, frustration, embarrassment, and humiliation, all in an amount to be determined by the jury.

b. Plaintiffs are entitled to their attorney fees, pursuant to 15 U.S.C. § 1681n(c) and 1681o.

3. THIRD CLAIM FOR RELIEF

Washington State Fair Credit Reporting Act, RCW 19.182.005 et seq.

a. As a result of defendants' willful violation of the Washington State Fair Credit Reporting Act, plaintiffs were caused to suffer economic damages in the

1 form of inability to refinance, higher interest rates, damage to their reputation,
2 worry, fear, distress, frustration, embarrassment, and humiliation, all in an amount
3 to be determined by the jury.

4 b. Plaintiffs are entitled in addition to actual damages, to a \$1,000
5 penalty in accordance with RCW 19.182.150.

7 c. Plaintiffs are entitled to costs of this suit, including attorney fees,
8 pursuant to RCW 19.182.150.

9 4. FOURTH CLAIM FOR RELIEF

10 Washington State Fair Credit Reporting Act, RCW 19.182.005 et seq.

11 a. As a result of defendant's negligent violation of the Washington State
12 Fair Credit Reporting Act, plaintiffs were caused to suffer a lost economic
13 opportunity, economic damages in the form of inability to refinance, higher interest
14 rates, damage to their reputation, worry, fear, distress, frustration, embarrassment,
15 and humiliation, all in an amount to be determined by the jury.

17 b. Plaintiffs are entitled to costs of this suit, including their attorney fees,
18 pursuant to RCW 19.182.150.

19 5. FIFTH CLAIM FOR RELIEF

20 Washington State Consumer Protection Act, RCW 19.86.010 et seq.

21 a. Plaintiffs are entitled under RCW 19.86.090 to an amount equal to
22 three times their actual damages.

23 b. Plaintiffs are entitled to costs of this suit, including a reasonable
24 attorney fee.
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1 6. Such other and different relief as the court deems just and proper.

2 DATED this 11th day of August, 2004.

3 HELSELL FETTERMAN LLP

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6 By *Richard S. White*

7 Richard S. White, WSBA #4195
8 Attorneys for Plaintiffs
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